

**Minutes of the Commerce and Workforce Services Appropriations Subcommittee Meeting
September 12, 2007
Room W110, House Building, State Capitol Complex**

Members Present: Sen. Jon J. Greiner, Co-Chair
Sen. Wayne L. Niederhauser
Rep. Michael T. Morley, Co-Chair
Rep. Sylvia S. Anderson
Rep. James A. Dunnigan
Rep. Craig A. Frank
Rep. Lynn N. Hemingway
Rep. Mark A. Wheatley

Members Excused: Sen. Mark B. Madsen
Sen. Ed Mayne
Rep. Larry B. Wiley

Staff Present: Danny Schoenfeld, Fiscal Analyst
Greta Rodebush, Secretary

Speakers Present: Lynette Rasmussen, Department of Workforce Services
Danny Schoenfeld, LFA
Darryle Rude, Department of Financial Institutions
Paul Allred, Department of Financial Institutions
Neal Gooch, Department of Insurance
Troy J. Pritchett, Milliman USA
Dennis Kellen, Department of Alcoholic Beverage Control
John G. Freeman, Department of Alcoholic Beverage Control
Joyce A. Sewell, Labor Commission
Francine A. Giani, Department of Commerce
Marvin H. Sims, Division of Occupational and Professional Licensing

A list of visitors and a copy of handouts are filed with the committee minutes.

1. Call to Order - Welcome

Co-Chair Greiner called the meeting to order at 8:30 a.m..

2. Child Care Step Down Proposal

Lynette Rasmussen, DWS, reviewed the handout: "Department of Workforce Services/Child Care Two-Tiered Eligibility Co-Payment Table Model and Forecast." This information had been previously requested by Rep. Frank in the August 29, 2007 subcommittee meeting. The tables reflect new co-pays for Income Groups 1-12 for Household size of 2 and 3 for families with incomes at 70 percent of the State Median Income (SMI).

Ms. Rasmussen indicated that the percentage of income for each Income Group is consistent with what is used nationally.

Rep. Anderson expressed concern that the change in co-pay for the lowest income group for a household of two was twice the amount of the change in co-pay for the highest income group. Ms. Rasmussen stated that she would review those numbers to see if they are correct.

Rep. Morley observed that perhaps the lower income groups may be willing to pay the extra co-pay to offset the "cliff effect" of the one-tier eligibility income requirements.

Sen. Frank asked about the cost of child care for one child. Ms. Rasmussen stated that the average cost is about \$600 a month. Sen. Niederhauser asked about out-of-pocket costs to parents, to which Ms. Rasmussen responded that parents are obligated to pay the difference between the child subsidy and what the provider charges.

Rep. Hemingway pointed out that there may be an error in Table 2: HH Size of 3 for Income Group 9, which shows a new copay for two kids as \$16.00. He also asked about licensed child care and background checks. Ms. Rasmussen clarified that a parent must use a licensed child care and that Bureau of Criminal Investigation background checks are conducted annually.

Ms. Rasmussen informed the committee that DWS has recalculated the cost for additional children at the 70% level of the SMI against the savings from increased co-pays. The new total estimate cost for a twelve-month period is \$490,944.

Rep. Dunnigan asked if this would be a finite appropriation. Ms. Rasmussen stated that the Department would make adjustments to work within the budget. He asked about the prevalence of people foregoing raises in order to stay within the income threshold and whether or not the two-tiered eligibility strategy would help families grow their incomes. Ms. Rasmussen remarked that income market data shows that families who left child care subsidy were coded as over income. She remarked that as people achieve greater economic self sufficiency, their dependence on all public programs is decreased; however, she noted that child care is the last program that a family will forego.

3. Department of Workforce Services, Budget Breakouts

Danny Schoenfeld, LFA, commented on the Issue Brief - DWS Budget Breakout. The Issue Brief provides an in-depth view of the DWS budget, broken out into the nine largest programs. The majority of the programs are federally funded and targeted toward select groups of eligible individuals. Mr. Schoenfeld pointed out that the Department pools workers' time and costs, and spreads these to benefitting programs using a statistical method called Random Moment Time Sampling (RMTS). As a result, DWS' budget has an integrated operations budget, funded by multiple funding sources and programs which is based on a changing mix of customers.

The Issue Brief -DWS Budget Breakout, also included a Schedule of Funding, Programs, and Category of Expenditures.

Bill Greer, Administrative Support Director, DWS responded to committee questions pertaining to program operating expenses and customer benefits.

Mike Richardson, Communications Director, DWS, explained that case management strategies have helped to reduce the number of individuals on public assistance. Sen. Greiner inquired about increasing program operating expenses despite the decrease in the customer base. Mr. Richardson explained that customers have significant barriers that need to be overcome and they cost more money.

Sen. Greiner asked about TANF funds. Bill Greer said that amount of money is \$60 million.

Co-Chair Morley asked about the funding pool set aside for unemployment insurance. Mr. Greer stated that the amount of money in the pool is significant. Mr. Richardson informed the committee that the unemployment insurance fund is approximately \$776 million.

Rep. Anderson observed that the operating expenses in the General Assistance/State Programs had tripled from FY 2006 to FY 2007. Mr. Richardson stated that he would respond back once he clarified if that amount reflects a transfer of funds from one account to another.

Mr. Schoenfeld commented on the Issue Brief - TANF & the Deficit Reduction Act. He touched on a number of program highlights. He did point out that with the reauthorization of TANF, participation requirements will change as of October 1, 2007. As per state participation agreements, DWS will not be able to use certain eligibility requirements to draw down some of these funds. Mr. Schoenfeld noted that it will be important to follow these developments going into session.

4. Department of Financial Institutions, Industrial Loan Corporations

Danny Schoenfeld, LFA, briefly commented on the Issue-Brief - Industrial Banks, and noted that the 31 nationally chartered Industrial Banks in Utah have more than \$201 billion in assets as of June 2007. Utah-based industrial banks are among the strongest in the nation. A list of those industrial banks is found on the back page of the Issue Brief.

Mr. Schoenfeld introduced Michael Jones, Chief Examiner, Department of Financial Institutions and Darryle Rude, Supervisor, Industrial Banks.

Mr. Rude explained that Industrial Banks play an important role in the Department of Financial Institutions, and in the state of Utah. The industry now comprises 70 percent of the revenues that come into the Department. From June 2006 to June 2007, the industry has grown by 50 percent

in assets from \$134 billion to \$210 billion. Mr. Rude expects further increases in the third and fourth quarter of the year.

Mr. Rude stated that while the number of Industrial Banks is declining, larger Industrial Banks are growing. This will remain the case until some of the barriers in Washington, D.C. are broken down on the issuing of new insurance programs for charter banks in Utah. This regulation is due to expire in January 2008, and possibly a new rule will be put in place to regulate the commercial entities in this area of banking.

Mr. Rude reviewed the history of industrial loan banks nationally and in Utah, commented on legislation and proposed rules that regulate the industry, and responded to committee members' questions regarding the WalMart application controversy.

5. Department of Insurance, HIPUtah Reserves

Neal Gooch, Deputy Insurance Commissioner, Department of Insurance, reviewed the power point presentation: "Utah Comprehensive Health Insurance Pool (HIPUtah)." Topics included: HIPUtah Background and Principles, Enrollment, Funding 2008-2010, and Financial Projections. Troy J. Pritchett, Consulting Actuary, Milliman USA was available to comment on financial projections.

The purpose of HIPUtah is to provide reasonable access to health insurance for Utahns with serious medical conditions and are considered uninsurable. Enrollment growth has been increasing toward the long run average growth of 9.6 percent. More recently, this growth has slowed. Currently, 3,381 individuals are covered through HIPUtah out of a projected 18,360.

Mr. Gooch responded to committee questions. Rep. Dunnigan commented on health insurance options for the general public, and explained how the HIP program complements commercial health insurance plans.

Mr. Gooch explained that the Utah Legislature appropriated \$11 million to HIPUtah in FY 2007. The base budget for FY 2008 was \$10.8 million. In order to maintain a three year actuarial sound funding level, the HIPUtah Board is requesting that the base budget remain at \$10.8 million for FY 2009, 2010, and 2011. At the end of FY 2011, it is projected that HIPUtah will be at the six-month reserve level.

Mr. Pritchett, commented on HIPUtah Financial Projections and stated that for the FY 2007-2011, appropriations and earned premiums nearly equal total claims and administrative fees.

Sen. Niederhauser asked about federal grants and the use of reserves. Mr. Gooch stated that federal funding is no longer available because federal legislation has not been renewed. He went on to explain that it is important to maintain actuarially-based reserves. As financial forecasts change, adjustments to appropriations requests will need to be made.

6. Department of Alcoholic Beverage Control, Update on New Building Construction

Dennis Kellen, Director, Department of Alcoholic Beverage Control (DABC), and John Freeman, Operations Director, reported on the new St. George State Liquor Store scheduled to open for the Christmas holidays. Mr. Kellen informed the committee that a budget request for an additional store to serve Washington, St. George, LaVerkin areas will be made in the upcoming General Session.

Rep. Hemingway asked about making the price of alcohol more competitive with neighboring states. Mr. Kellen stated that this would require a statutory change to the current law that sets a minimum mark up on all distilled spirits sold in the state. Mr. Freeman did point out that the price of some fine wines are sold at higher prices in Utah than in California.

Mr. Freeman gave an update on a number of building projects. Those projects include state liquor stores in: Riverton, Salt Lake City - 3rd West 1600 South, 3300 South 3000 East, North Temple, Redwood Road, Taylorsville, Holladay, Bountiful, Kimball Junction, and Park City - Main St. The Department is also requesting additional building projects to replace the Cedar City store, and package agencies in Utah County, Heber-Midway area, and Washington County.

Rep. Anderson asked how Utah's retail stores compare with other states in terms of convenience for the customers, profitability, marketing, and pricing. Mr. Kellen stated that Utah has a very fine selection of wines with competitive prices. The price of distilled spirits is higher in Utah but those prices can fluctuate. Utah has 38 retail stores and 100 package agency outlets and does more business than Idaho that has 72 stores. The Utah DABC has been recognized as the model organization for all other control states.

Co-Chair Frank inquired about the possibility and practicality of divesting the State of heavy beer distribution. Mr. Kellen explained that beer wholesalers would like to sell heavy beer (> 3.2 percent) directly to licensees who have a license to sell heavy beer. A distribution network is already in place and the product could get to the customer quicker. The State would continue to sell to individuals for home use. One benefit to the State would be the freeing up of warehouse space. Co-Chair Frank did point out that it would have a negatively impact the General Fund by about \$900,000 to \$1 million.

7. Labor Commission, Division of Industrial Accidents

Joyce Sewell, Director, Industrial Accidents Division, reported on the handout and power point presentation: "Utah Labor Division Industrial Accidents Division," that is responsible for the administration of the Workers' Compensation Act.

Ms. Sewell gave an in-depth review of the Claims and Policy Sections of the report, and commented on the Uninsured Employers' Fund that pays for workers' compensation claims of injured workers whose employers are either insolvent or bankrupt, and the Employers'

Reinsurance Fund that pays disability benefits to injured workers who were injured prior to July 1, 1994, and are permanently and totally disabled. Ms. Sewell also explained the functions of Workers' Compensation Advisory Council and the Medical Fee Advisory Committee.

Rep. Anderson asked about proposed independent contractor legislation. Ms. Sewell explained that sole proprietorships and partners are not required to carry workers' compensation insurance. In Utah, most of the individuals who fit that description are subcontractors. If the subcontractors do not present an exclusion certificate from Workers' Compensation Fund, they become an employee of the general contractor who then must provide insurance. She pointed out that there is an increasing problem with subcontractors hiring employees, paying them at an hourly rate, and sending them to Workers' Compensation Fund to get an exclusion certificate so they do not have to pay the insurance. This creates an unfair playing field allowing some contractors to outbid other contractors because they do not have insurance obligations. Possible solutions to this dilemma include legislation that would establish stricter qualifying criteria, or doing away with the exemption certificate all together.

Ms. Sewell responded to questions regarding the Labor Commission's legislative regulatory authority on the matter of prescription drugs. She clarified that the Labor Commission can not regulate wholesale prescription costs or dispensing fees. The Labor Commission can, however, regulate physician fees that includes physical and occupational therapists. In 2000, The Medical Fee Advisory recommended that the Commission adopt the Federal medical fee schedule with Utah specific rates adopted. This fee schedule is reviewed annually.

Co-Chair Morley inquired about the qualifying criteria for exemption certificates for independent contractors. Ms. Sewell noted that Bill Starks, Unemployment Insurance Director, Department of Workforce Services, chairs a committee that is studying this issue. Co-Chair Morley asked if Ms. Sewell would let him know which legislators sat on that committee.

8. Department of Commerce, Division of Occupational Licensing, Prescription Drug Database

Francine A. Giani, Executive Director, Department of Commerce, presented the handout and power point presentation: "Utah's Controlled Substance Database Program (CSDB)." She was assisted by Marvin H. Simms, Controlled Substance Database Administrator, Division of Occupational and Professional Licensing.

The Controlled Substance Database Program is a resource that aids in the prevention, enforcement, and treatment of prescription controlled substance misuse and diversion. The CSDB was begun in July 1996 and represents of a collection of Schedule II-V prescription drug records. To date, over 33 million records have been processed electronically. These records are available to Division personnel, practitioners, pharmacists, law enforcement officers, individuals, and the Health Department with certain restrictions.

Ms. Giani observed that the CSDB is under used. She noted that of the 4 million prescriptions written in 2006, there were only 88,000 requests for information. She added that 75 per cent of those requests were from doctors.

Ms. Giani's presentation also included statistics on the top 21 profiles of Doctor Shoppers.

Rep. Anderson asked about establishing an appropriate "stop gap" in the number of prescriptions written by practitioners and pharmacists. Ms. Giani stated that this "stop gap" may be helpful to the medical and pharmaceutical communities. Ms. Giani explained that the database is a powerful tool that needs to be used.. Mr. Simms explained that a profile report can be looked up in one of four ways using first name, last name, date of birth, and address. The default report shows all controlled substances received within the last 120 days. The default can be changed to include 360 days. A summary history on an individual is also available as far back as back to 2002.

Co-Chair Greiner asked if Ms. Giani could offer any recommendations for legislation. She suggested that legislation require doctors to look first at the database before writing a prescription. Mr. Sims added that legislation should carry a penalty if someone were to violations were incurred.

Co-Chair Greiner commented on the shortage of investigators. Ms. Giani informed the committee that during the next legislative session, the Department of Commerce will make a budget request for a pharmacy investigator.

Co-Chair Greiner entertained a motion to adjourn.

MOTION: Co-Chair Frank moved to adjourn. The motion passed unanimously.

Co-Chair Greiner adjourned the meeting at 12:00 pm.